HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.529 of 2007

Between:

Tirumala Tirupati Devasthanams,
represented by its Executive Officer,
Tirupati, Chittoor District.

... Appellant

And

D. Krishna Murthy and 19 others

... Respondent

::JUDGMENT::

Counsel for the appellant : Shri A.K. Jayaprakash Rao

Counsel for the respondents : Shri K. Jaya Kumar

June 26, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 15-9-2004 passed by the learned Single Judge in Writ Petition No.3215 of 1997, whereby he directed the appellant to pay minimum scales of pay to the writ petitioners (the respondents herein) at par with similarly situated employees for the period from 1-1-1990 to 1-8-1991.

The respondents were appointed as Volunteers/Attenders in the services of the appellant on a monthly remuneration of Rs.650/-. Their services were regularised with effect from 1-8-1991 in accordance with the policy contained in G.O.Ms.No.391, Revenue (End.II) Department, dated 6-5-1991. 103 Volunteers/Attenders, who

were appointed in similar manner and whose services were regularised with effect from 1-8-1991, filed Writ Petition No.9373 of 1994 claiming minimum of the regular pay scale for the period from 1-1-1990 to 1-8-1991 by contending that they were discharging duties similar to those performed by regular employees. By an interim order passed in WPMP.Nos.4623 and 10077 of 1989, this Court directed the respondents to pay minimum of the regular time scale to the petitioners of that case. By another interim order passed in WPMP.No.11436 of 1995, the Court directed payment of arrears of minimum of the pay scale to the writ petitioners. Both the orders were complied by the appellant and payments were made to the writ petitioners. The respondents herein also represented for grant of similar benefit, but they could not persuade the management of the appellant to accept their claim.

In the writ petition filed by them, the respondents relied on resolution dated 1297, dated 30-3-1994 passed by the appellant, whereby similarly situated persons were given the benefit of minimum of the pay scale for the period between from 1-1-1990 to 1-8-1991 and pleaded that they are entitled to similar benefit.

In the counter filed on behalf of the appellant, it was averred that there is no cadred post of Volunteer; that the State Government had permitted the appellant to engage Volunteers/ Attenders on consolidated pay of Rs.650/- per month and that even though the services of the writ petitioners had been regularised in terms of G.O.Ms.No.391, dated 6-5-1991, they are not entitled to minimum of the pay scale.

The learned Single Judge held that the management of the appellant is bound to treat the writ petitioners at par with other similarly situated persons, who were granted the benefit of minimum of the pay scale and directed that they be given the same benefit for the period from 1-1-1990 to 1-8-1991.

Learned counsel for the appellant relied on order

dated 18-6-2004 passed by another learned Single Judge in Writ Petition Nos.1488 and 1489 of 1997 and argued that the respondents are not entitled to the benefit of minimum of the pay scale. He argued that the respondents were not discharging duties similar to the regularly appointed persons and, therefore, they are not entitled to get minimum of the regular pay scale prescribed for the post of Volunteer/Attender.

In our opinion, there is no merit in the submissions of the learned counsel. In the affidavit filed by Sri N. Srinivasulu (respondent No.1 herein), it was clearly averred that the petitioners were discharging identical duties, but they were paid consolidated salary, whereas others were paid minimum of the regular time scale. In the counter filed on behalf of the appellant, it was not denied that the writ petitioners (the respondents herein) were not similar to those to whom the benefit of minimum of the time scale was given pursuant to the orders passed by this Court in Writ Petition No.9373 of 1994 and that they are discharging duties identical to similarly situated persons. Therefore, it is reasonable to take the view that the work and duties of the respondents were quantitatively and qualitatively similar to those who were given the benefit of minimum of the pay scale.

In **State of Punjab v. Devinder Singh**[1] and **State of Punjab v. Talwinder Singh and others**[2], the Supreme Court held that even though the daily-wagers are not entitled to regular time scale, they should be paid minimum of the regular pay.

In view of the above legal position, we do not find any valid reason to upset the direction given by the learned Single Judge to pay minimum of the scale to the writ petitioners (the respondents herein) for the period from 1-1-1990 to 1-8-1991.

The order passed by the learned Single Judge in Writ Petition Nos.1488 and 1489 of 1997 is clearly distinguishable. In that case, the relief of minimum of the pay scale was declined to the writ petitioners

because the learned Single Judge felt that the question of similarity in the nature of duties of the writ petitioners and other persons raises a disputed question of fact, which cannot be decided under Article 226 of the Constitution of India.

For the reasons stated above, the writ appeal is dismissed. However, it is clarified that the respondents shall be entitled to only minimum of the regular pay scale prescribed for the post of Volunteers/Attenders for the period from 1-1-1990 to 1-8-1991 and allowances payable at the minimum of the scale.

As a sequel to dismissal of the appeal, WAMP.No.1016 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

June 26, 2007

C.V. NAGARJUNA REDDY, J

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[1] (1998) 9 SCC 595

[2] (2003) 11 SCC 776